

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

THOMAS J. BALBONI,

Plaintiff,

v.

HOWARD SKOLNIK, et al.,

Defendants.

3:08-CV-451-RCJ(VPC)

**ORDER**

Before the Court is Plaintiff's Objection to Magistrate Judge's Report and Recommendation (#48) filed on June 15, 2009. This action was referred to U.S. Magistrate Judge Valerie P. Cooke pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4. The Magistrate Judge submitted her Report and Recommendation (#46) on June 2, 2009, recommending that this Court enter an order granting Defendants' Motion to Dismiss (#17). Defendants filed their Response to Plaintiff's Objection to the Magistrate Judge's Report and Recommendation (#50) on June 23, 2009.

**I. ANALYSIS**

**A. Review of Magistrate Judge's Order**

Pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 3-2, a party may file specific written objections to the findings and recommendations of a magistrate judge made pursuant to LR IB 1-4. The district court must make a *de novo* determination of those portions of the

1 magistrate judge's report to which objection is made and may accept, reject, or modify, in  
2 whole or in part, the findings or recommendations made by the magistrate judge. LR IB 3-2(b).  
3 *De novo* review means the court must consider the matter anew, the same as if it had not  
4 been heard before and as if no decision previously had been rendered. Ness v.  
5 Commissioner, 954 F.2d 1495, 1497 (9th Cir. 1992). Thus, although the district court need  
6 not hold a *de novo* hearing, the court's obligation is to arrive at its own independent conclusion  
7 about those portions of the magistrate judge's findings or recommendation to which objections  
8 are made. United States v. Remsing, 874 F.2d 614, 617 (9th Cir. 1989).

9 After conducting a *de novo* review of the record, the Court accepts and adopts the  
10 Magistrate Judge's Minutes of the Court (#46).

### 11 III. CONCLUSION

12 IT IS HEREBY ORDERED that the court ACCEPTS and ADOPTS in whole the Report  
13 and Recommendation of U.S. Magistrate Judge (#46), and Plaintiff's Objections to Report and  
14 Recommendation of United States Magistrate Judge (#48) are DENIED.

15 IT IS FURTHER ORDERED that Defendants' Motion to Dismiss (#17) is GRANTED,  
16 Plaintiff's Motion to Strike Defendants' Motion to Dismiss (#21) is DENIED, and Defendants'  
17 Motion to Strike Plaintiff's Sur-Reply to Defendants' Motion to Dismiss (#25) is GRANTED.

18 IT IS FURTHER ORDERED that this action is DISMISSED without prejudice. The Clerk  
19 of the Court shall enter judgment accordingly.

20 IT IS SO ORDERED.

21 DATED: This 12 day of October, 2009.

22  
23   
24 Robert C. Jones  
25 UNITED STATES DISTRICT JUDGE  
26  
27  
28